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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,188	09/13/2000	Thomas Anthony Stahl	RCA 88863	9240

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PATENT OPERATIONS
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EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/555,188

Applicant(s)

STAHL ET AL.

Examiner

Victor R. Kostak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-3, 10, 11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 4-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The previous rejection has been withdrawn in view of applicant's argument, and is now superceded by the following rejection. The examiner regrets prolonging prosecution.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2 and 10 are now rejected under 35 U.S.C. 102(e) as being anticipated by Pollman et al. # 5,809,538 (made of record in a previous communication).

The system of Pollman (noting particularly Figs. 2 and 6) is digital (e.g. col. 1 lines 4-9) and includes an arbiter 100 for receiving from a peripheral device DRAM 204, interconnected by bus 282 (Fig. 2) or 640 (Fig. 6), bit-mapped data representative of on-screen display data (col. 10 lines 63-67). Terminal 610 (Fig. 6) receives a digital data stream representative of a television program, and MUX 65 combines the OSD data originating from the DRAM with the received video stream for eventual presentation to a TV at output 690, thereby meeting claim 1.

As for claims 2 and 10, the OSD data can be updated (e.g. col. 1 lines 35-47) to accommodate the viewer continuously with current programming information, the most recent data replacing that previously stored (indexed) in the DRAM.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is now rejected under 35 U.S.C. 103(a) as being unpatentable over Pollman et al.

It would have been obvious to present the OSD data (and updated versions thereof) on any part of the television screen as long as the OSD data is fully readable by the viewer. To do so may require writing over currently displayed imagery (or text/graphical data), which would have been obvious to do since the OSD data is typically prompted by the viewer sporadically during presentation of a video program that is presented for a longer continuous time period compared with OSD data which is relatively much more temporary.

4. Claims 11, 13 and 14 are now rejected under 35 U.S.C. 103(a) as being unpatentable over Pollman et al. in view of Iwamura # 5,883,621.

Because Pollman does not specify the type of bus he uses with his DRAM, he implicitly suggests to one of ordinary skill in the art that any suitable bus would be adequate. It would therefore have been obvious to one of ordinary skill in the art to use any well-known available bus, such as the IEEE 1394 bus as taught by Iwamura, who also discloses communicating OSD data with various digital A/V devices including DVCRs and DVDs (e.g. col. 3 lines 20-34).

Furthermore, since an IEEE 1394 bus can be used in either asynchronous or isochronous modes of data transfer (col. 1 lines 37-47), it would have been obvious to use the mode considered better for the specific type of data application, which in the case of transferring OSD data, the asynchronous mode would have been obvious to use considering that OSD data is data

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that do not require the full bandwidth of video programming (which the isochronous mode provides), thereby meeting claim 11.

As for claim 13, the OSD data can involve data representative of a programmed event (i.e. an upcoming program presented in a schedule guide, noting the type of OSD data mentioned above in Pollman) which would by default be transferred as bit-mapped data in a first mode. Subsequent bit-mapped data from the DRAM would be transferred later in another (second) mode, and later data in further respective modes, all of which may be in the same mode as the first.

Regarding claim 14, the IEEE 1394 bus of Iwamura incorporated in Pollman can operate in asynchronous and isochronous modes and would have been obvious to use either, whether data immediacy or bandwidth is preferred for the type of data.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Claims 4-9 and 12 appear allowable over the prior art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (571) 272-7348. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.



Victor R. Kostak
Primary Examiner
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